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StatPearls [Internet]. Treasure Island (FL): StatPearls Publishing; 2019 Jan-.

## Good Samaritan Laws

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Last Update: May 27, 2019.

## Definition/Introduction

The premise underlying the good Samaritan law traces its origin to the ancient biblical parable ultimately yielding the definition of a good Samaritan as an individual who intervenes to assist another individual without prior notion or responsibility or promise of compensation.[1]

Good Samaritan laws have their basis on the idea that consensus agreement favors good "public policy" to limit liability for those who voluntarily perform care and rescue in emergency situations. It is well known that medical emergencies outside of the umbrella "medical setting" or "clinical environment" are common.[2] Thus, in theory, and principle, we are improved as a society if the potential rescuers (i.e., the good Samaritans) are solely concerned about helping a person in need as opposed to worrying about the possible liability associated with assisting their fellow man or woman.

The general principle of most versions of the good Samaritan law provides for protection from claims of negligence for those who provide care without expectation of payment. The good Samaritan laws also further public policy because few jurisdictions have created an affirmative duty for a medical professional to provide care in the absence of an established patient relationship. Each state has its version(s) of the law, and federal laws also exist for individual circumstances.

It is worth noting that other countries besides the United States of America (USA) have differing laws, opinions, and regulations regarding the good Samaritan scenarios. Most have no legal obligation to treat. Many western countries recognize the moral duty to stop and render treatment rather than a legal requirement.[3] In the USA, all 50 states have good Samaritan laws. Provisions of these laws have minor variations from state to state.[2] The tort system in the United States is unique; therefore, the concept of liability is different from country to country.[4]

In legal terms, a good Samaritan is anyone who renders aid in an emergency to an injured or ill person. Generally, if the victim is unconscious or unresponsive, a good Samaritan can help them on the grounds of implied consent. If the person is conscious and can reasonably respond, a would-be rescuer should ask permission first.

All 50 states and the District of Columbia have a good Samaritan law, in addition to Federal laws for specific circumstances. Many good Samaritan laws were initially written to protect physicians from liability when rendering care outside of their usual clinical setting. The details of good Samaritan laws vary by jurisdiction, including who is protected (physicians, emergency medical technicians, and other first responders) from liability and under what circumstances. In general, these laws do not protect medical personnel from liability if acting in the course of their usual profession.

Good Samaritan laws give liability protection against "ordinary negligence." Ordinary negligence is the failure to act as a reasonably prudent person. It is the failure to exercise such care as the great mass of humanity ordinarily applies under the same or similar circumstances.

These laws do not protect against "gross negligence" or willful actions. Gross negligence is a conscious and voluntary disregard of the need to use reasonable care, which is likely to cause foreseeable grave injury or harm to persons, property, or both.

For good Samaritan laws to be applicable for physicians (and other health care providers), certain conditions must apply. There must exist no duty to treat. For this reason, this protection does not typically apply to on-call physicians.[5] Therefore, any physician that has a pre-existing relationship with the patient cannot be considered a good Samaritan. Another exclusion to almost all state statutes is that the physician or other health care provider providing aid cannot receive compensation for their care. If one receives any remuneration for helping in rendering emergency care, they can no longer be considered a good Samaritan, and therefore, the protections no longer apply.

## Issues of Concern

Good Samaritan laws typically do not legally protect on-duty doctors. However, there have been cases in the hospital setting when a physician has been deemed a good Samaritan and afforded the protection of these laws.[5] Two separate examples in Michigan determined that surgeons who were not on call but contacted by the emergency department to help a patient were not held liable for poor outcomes due to good Samaritan protection.[5] Conversely, another ruling in New Jersey adopted the position that in all instances, "the protection of the Good Samaritan Act stops at the door of the hospital." [5] These cases serve to illustrate the variability not only from state to state but also from situation to situation. Another striking example of this variability is that all states except Kentucky have statutory language providing immunity to physicians licensed in any other state as well.[6] Therefore, the degree of reciprocal immunity can also vary from state to state.

One area of recent interest and legislation relates to the current opioid crisis. Drug overdose is the leading cause of accidental death in the United States.[7] The most common drugs associated with these overdoses are opioids. As a result, 40 states and the District of Columbia have enacted good Samaritan laws specific to this issue. These laws intend to reduce the number of overdoses by encouraging both victims and witnesses to call 911, by granting a certain degree of immunity. This immunity may come in the form of not being charged with a drug-related offense or receiving a reduced sentence.[7] For instance, in Washington state, a law was passed in 2010 to encourage more people to call for medical care after a suspected overdose. After the passage of this law, both EMS personnel and police regarded the care of the patient as a top priority versus the need for drug confiscation and arrest.[8] The generally accepted is that this type of caller immunity will lead to more lives saved, and it is likely that the enactment of additional targeted laws such as these will take place in the future.

## Clinical Significance

Most good Samaritan laws do not apply to medical professionals or career emergency responders during on-the-job conduct. However, some extend protection to professional rescuers when they are acting in a volunteer capacity.[6]

Research shows that increasing physician awareness of these protections increases the likelihood to help. In one study of residents and fellows, roughly half the respondents reported being present at a medical emergency outside of the work setting. The majority indicated that they experienced reluctance to help because of concerns about liability exposure outside of the clinical setting. After being educated about good Samaritan laws, most indicated they would be more likely to assist if they had prior understanding of these laws. An overwhelming majority requested this information to be part of their medical education. They further indicated this additional education would increase their likelihood to offer assistance in these instances.[2] There is a myriad of situations and locations that a good Samaritan could be needed. The most common locations being sports and entertainment events (25%), road traffic accidents (21%), and wilderness settings (19%).[9]

There has been a recent push to establish so-called "bad Samaritan" laws. These laws essentially establish a duty to aid those in need. These laws are not strictly applicable to health care providers. Three states – Minnesota, Rhode Island, and Vermont – impose a broad obligation to rescue individuals in an emergency. While, Hawaii, Washington, and Wisconsin, have legislated the duty to report crimes to authorities. However, these laws have not had vigorous

enforcement. Also, many states require healthcare providers to report certain kinds of criminal acts, such as gunshot wounds and child abuse. A few states require healthcare professional to stop and render aid during an emergency; this only applies if helping a victim can be accomplished without placing themselves in danger.[10]

Although the vast majority of good Samaritan laws are state laws, one particularly applicable federal law involving physicians and other health care providers is the 1998 Aviation Medical Assistance Act (AMAA). This law provides coverage for "good Samaritans" while in flight (Section 5b).[11] On airplanes, the AMAA protects those physicians and other health care professionals (HCP) acting in good Samaritan roles on airlines registered in the United States.[6]

The 1998 Aviation Medical Assistance Act provides liability protection for a healthcare professional acting as a good Samaritan. Nevertheless, HCPs may initially experience trepidation providing care in an aircraft. They may be unaware that a first aid kit, an emergency medical kit, and an automatic external defibrillator are available on every plane. Flight crews training in cardiopulmonary resuscitation and a support system, including a ground-based consultation service, is available to provide radio assistance from an on-call physician.[12]

The most common inflight emergencies involve syncope or near-syncope (32.7%), gastrointestinal (14.8%), respiratory (10.1%), and cardiovascular (7.0%) symptoms. Diversion of the aircraft from landing at the scheduled destination to a different airport because of a medical emergency occurs in an estimated 4.4% (95% CI, 4.3%-4.6%) of inflight emergencies.[11] Minimum requirements for onboard emergency medical kit equipment in the United States include an automated external defibrillator; equipment to obtain a basic assessment, hemorrhage control, initiation of an intravenous line; and medications to treat basic conditions. Other countries have different minimum medical kit standards, and individual airlines can expand the contents of their medical kit.[11]

## Conclusion

Although the primary intent of good Samaritan laws is clear, the real-world application can be quite different. All health care providers should familiarize themselves with the specific laws and protections in their state. However, as this article illustrates, when flying or traveling in other municipalities, some unique responsibilities and coverages exist. When unsure of the local liability protections, you may simply want to do as the good Samaritan did.

## Questions

To access free multiple choice questions on this topic, [click here](#).

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